

Message Text

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73

ACTION OES-06

INFO OCT-01 EUR-12 ISO-00 EB-07 COME-00 AGRE-00 CG-00

 DOTE-00 IO-13 TRSE-00 OMB-01 DLOS-06 SAL-01 CIAE-00

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FM AMEMBASSY WARSAW

TO SECSTATE WASHDC 4537

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E.O. 11652: N/A

TAGS: EFIS, ICNAF, PLOS, XN,US, PL

SUBJECT: US-POLISH FISHERIES BILATERAL AGREEMENT

REF: (A) WARSAW 7279, (B) STATE 243727

1. SUMMARY. ON OCTOBER 12, AN EMBOFF MET WITH PRZEMYSLAW ANDERS, DEPUTY DIRECTOR OF THE MARITIME DEPARTMENT, MINISTRY OF FOREIGN TRADE, TO DISCUSS CONGRESSIONAL CONSIDERATION OF THE US-POLISH FISHERY AGREEMENT AS DESCRIBED REF B. ANDERS AGREED WITH THE DEPARTMENT'S EXPLANATION OF THE QUESTIONS RAISED DURING CONGRESSIONAL HEARINGS, AS DESCRIBED IN PARAS 4 AND 5 OF REF B. HE SAID THAT THESE MATTERS COULD BE TAKEN UP IN SUBSEQUENT CONSULTATIONS AND SUGGESTED THAT THEY BE THE SUBJECT OF AN ADDITIONAL AGREEMENT IF NECESSARY. ANDERS SAID IT WOULD BE HELPFUL TO RECEIVE, EITHER THROUGH CONSULTATIONS OR THROUGH NEW FEDERAL REGULATIONS, A CLARIFICATION OF THE MEANING OF SECTION 201 (C)(2)(G). HE ALSO ASKED THAT, IF POSSIBLE, THE DEPARTMENT COORDINATE WITH THE CANADIANS TO ARRANGE FOR BACK-TO-BACK FISHERY DISCUSSIONS IN OTTAWA AND WASHINGTON DURING EARLY NOVEMBER. END SUMMARY.

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2. AN EMBASSY OFFICER DISCUSSED WITH DEPUTY DIRECTOR ANDERS THE LIKELY TIME-FRAME FOR CONGRESSIONAL ACTION ON THE US-POLISH GIFA AND THE QUESTIONS RAISED DURING HOUSE HEARINGS ON THE AGREEMENT. ANDERS HOPED THAT THE AGREEMENT MIGHT BE APPROVED DURING A POSSIBLE NOVEMBER SESSION. HE REALIZES THAT FINAL ACTION BEFORE JANUARY IS NOT LIKELY, BUT FEELS THAT SUCH A LONG WAIT WOULD ADD TO THE BURDENS OF COMPLETING PROCEDURES FOR LICENSING AND THE APPOINTMENT OF POLISH AGENTS BEFORE MARCH 1. IN RESPONSE TO ANDERS'S QUESTION, EMBOFF SAID THAT, ACCORDING TO HIS INTERPRETATION OF THE LEGISLATION, THE AGREEMENT WOULD BE APPROVED AFTER IT HAD RESTED WITH THE HOUSE AND SENATE FOR 60 CONGRESSIONAL WORKING DAYS, UNLESS EITHER BODY ACTED NEGATIVELY. EMBOFF ADDED THAT RESOLUTIONS OF BOTH BODIES WOULD BE REQUIRED IF THE AGREEMENT WERE TO BE APPROVED EARLIER THAN THE 60-DAY PERIOD. FINALLY, EMBOFF SAID HE WOULD ASK THE DEPARTMENT TO CONFIRM THIS INTERPRETATION.

3. ANDERS SAID THAT PARA 3 OF THE PREAMBLE TO THE GIFA SHOULD BE INTERPRETED AS EXPLICIT GOP RECOGNITION OF US FISHERY-MANAGEMENT LEGISLATION, AND THEREFORE OF ANY REGULATIONS PROMULGATED BY THE SECRETARY OF COMMERCE PURSUANT TO THE LEGISLATION. HE ADDED THAT, IF ANY QUESTION EXISTED ON THIS POINT, IT COULD BE TAKEN UP IN FUTURE CONSULTATIONS OR IN AN ADDITIONAL AGREEMENT BETWEEN THE TWO GOVERNMENTS.

4. REGARDING THE JOINT FISHERIES BOARD, ANDERS SAID THAT THE BOARD WAS ONLY CONCILIATORY IN NATURE AND COULD THEREFORE NEVER PREVENT AN INJURED US PARTY FROM PRESENTING A CASE TO THE US COURTS. HE THEREFORE SAW NO CONFLICT BETWEEN CONTINUATION OF THE FISHERIES BOARD AND CONGRESSIONAL INTENT TO SAFEGUARD THE RIGHTS OF US PARTIES. ANDERS ALSO SUGGESTED THAT THE DEPARTMENT MIGHT WISH TO SEND TO COMMITTEE STAFF MEMBERS COPIES OF THE REPORT JUST ISSUED BY THE DEPARTMENT OF COMMERCE ON THE PROCEEDINGS OF THE JOINT FISHERIES BOARD OVER THE LAST THREE YEARS. (COMMENT: ANDERS CLEARLY CONSIDERS THE RECORD OF THE BOARD TO BE EXEMPLARY AND A DEFINITE BENEFIT TO BOTH THE US AND POLAND. END COMMENT.)

5. ANDERS WAS LESS CLEAR, HOWEVER, ON THE INTENT OF SECTION LIMITED OFFICIAL USE

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201(C)(3)(G) OF THE FISHERY MANAGEMENT ACT. HE SAID THAT THE GOP HAD AGREED TO APPOINT POLISH AGENTS IN THE US WHO WOULD BE RESPONSIBLE FOR PAYMENT OF ALL FINES OR DAMAGES ASSESSED AGAINST POLISH VESSELS. IN HIS OPINION, THIS CONSTITUTED ASSUMPTION OF RESPONSIBILITY BY THE GOVERNMENT OF POLAND FOR COMPENSATION TO US CITIZENS. ANDERS SPECULATED THAT THE INTENT OF THIS PARAGRAPH WOULD REQUIRE SPECIFIC FEDERAL REGULATIONS OR, AT A MINIMUM, BILATERAL CONSULTA-

TIONS, IN ORDER TO MAKE ITS INTENT CLEAR. HE WONDERED, FOR INSTANCE, WHETHER THIS PROVISION IN THE LEGISLATION WOULD MEAN THAT THE SECRETARY OF COMMERCE WOULD HAVE AUTHORITY TO PRESENT JUDGEMENTS OR ASSESSMENTS OF DAMAGE DIRECTLY TO THE GOVERNMENT OF POLAND.

6. ANDERS SAID THAT VICE MINISTER WISNIEWSKI HOPED TO BE ABLE TO HOLD CONSULTATIONS IN WASHINGTON IN EARLY NOVEMBER. THE GOP HAS TENTATIVELY SCHEDULED CONSULTATIONS IN OTTAWA FOR NOVEMBER 2-4 AND WOULD LIKE TO KNOW IF TALKS MIGHT BE SCHEDULED FOR WASHINGTON IMMEDIATELY THEREAFTER. EMBOFF SAID THE DEPARTMENT HAD EXPECTED TO MEET WITH THE POLES AT SOME POINT IN NOVEMBER, BUT HE DID NOT KNOW WHETHER THERE MIGHT BE SOME CONFLICT IN SCHEDULE DURING THE FIRST WEEKS OF NOVEMBER. ANDERS ASKED THAT, IF POSSIBLE, THE DEPARTMENT CONSULT WITH THE CANADIANS CONCERNING DATES IN EARLY NOVEMBER WHICH WOULD BE CONVENIENT FOR BACK-TO-BACK NEGOTIATIONS. HE LEFT THE IMPRESSION THAT THE POLES WISH TO HOLD THEIR TALKS IN OTTAWA FIRST.

7. ANDERS ALSO REQUESTED ANY AVAILABLE INFORMATION ON THE MAKE-UP OF THE REGIONAL FISHERIES COUNCILS AND ON ANY ADDITIONAL REGULATIONS (SUCH AS FEES OR LICENSES) WHICH HAVE BEEN ISSUED BY THE USG UNDER THE FISHERIES-MANAGEMENT LEGISLATION. EMBOFF SAID HE WOULD ALSO REQUEST A COPY OF THE COMMITTEE PRINTS ON THE SEPTEMBER 28 HEARINGS.

8. FINALLY, EMBOFF DELIVERED TO ANDERS A LETTER SETTING OUT THE US INTERPRETATION OF "INSTRUCTED REPRESENTATIVE" AS PROVIDED IN PARA 9, REF B. ANDERS SAID THAT HE HAD NO PROBLEM WITH THE US INTERPRETATION, BUT THAT, IN HIS RECOLLECTION, THE CHANGE IN THE TEXT HAD BEEN MADE DUE TO A TRANSLATION DIFFICULTY RATHER THAN ANY SPECIFIC REQUEST BY THE POLISH LIMITED OFFICIAL USE

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DELEGATION.

9. ACTION REQUESTED: THE EMBASSY WOULD APPRECIATE RECEIVING:

A) THE DEPARTMENT'S VIEWS ON THE CHANCES OF SCHEDULING OUR BILATERAL FISHERIES DISCUSSIONS BACK-TO-BACK WITH POLAND'S BILATERALS WITH CANADA;

B) CONFIRMATION OF THE EMBOFF'S INTERPRETATION IN PARA 2 ABOVE; AND

C) ANY OF THE INFORMATION REQUESTED IN PARA 7.
DAVIES

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